IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPLICATION NO.30 OF 2002

The Commissioner of Central Excise,
Pune-I Commissionerate .. Petitioner
V/s
M/s.Telco Ltd. .. Respondent

Mr.R.V.Desai, Sr.Counsel for the Petitioner-Applicant.

Mr.D.B.Shroff with Mr.D.D.Mehta and Mr.H.N.Vakil i/by M/s. Mulla & Mulla & CBC for the Respondent.

CORAM: DR.S.RADHAKRISHNAN &
J.H.BHATIA, JJ.

DATE : 10/08/2005.

P.C.:

1. Heard the learned Counsel for the parties. By this application, the Petitioner-Applicant is seeking to raise following two substantial questions of law:-

"(i). Whether the CEGAT was justified in going beyond the Bill of Entry to hold that a machine imported admittedly in completely knocked down condition and assessed as complete machine are only parts and the benefit available under the modvat schemes extended to the assessee assuming that the goods imported were parts/components only? "

"(ii). Whether the CEGAT was justified in holding that a declaration filed under a specific Rule, Rule 57Q in the instant case, could be made applicable and substituted for a declaration required to be filed under another Rule, Rule 57A in the instant case? "

2. We have perused the judgment of the CEGAT dated 8.8.2001. There is no dispute that the machine which was imported as an automatic painting machine used for painting Cars, which could not be imported in one single unit and imported in completely knocked down condition as the said machine was huge. The CEGAT in paragraph Nos.6 to 9 of its order has held that as the Petitioner

is not entitled to Modvat credit under Rule 57Q, the Petitioner however would be entitled to credit under Rule 57A. We do not find any substantial questions of law involved in this Application. Hence, the Application stands dismissed.

(DR.S.RADHAKRISHNAN J.)

(J.H.BHATIA J.)